

§ 707.15

may not be returned to such position until that employee has:

(1) Successfully completed counseling or a program of rehabilitation;

(2) Undergone a urine drug test with a negative result; and

(3) Been evaluated by the site occupational medical department, which has determined that the individual is capable of safely returning to duty.

(d) An individual who is not an employee of a contractor who has been denied unescorted access because of the use of illegal drugs may not have the unescorted access reinstated until that individual has:

(1) Provided evidence of successful completion of counseling or a program of rehabilitation;

(2) Undergone a urine drug test with a negative result; and

(3) Been evaluated by the site occupational medical department, which has determined that the individual is capable of being permitted unescorted access to a reactor control area.

(e) If a DOE access authorization is involved, DOE must be notified of a contractor's intent to return to a testing designated position an employee removed from such duty for use of illegal drugs. Positions identified in § 707.7(b)(1) and (2) will require DOE approval prior to return to a testing designated position.

(f) An individual who has been notified of a positive test result may request a retest of the same sample at the same or another certified laboratory. The individual shall bear the costs of transportation and/or testing of the specimen. The contractor will inform employees of their right to request a retest under the provisions of this paragraph.

(g) After an employee determined to have used illegal drugs has been returned to duty, the employee shall be subject to unannounced drug testing, at intervals, for a period of 12 months.

§ 707.15 Collective bargaining.

When establishing drug testing programs, contractors who are parties to collective bargaining agreements will negotiate with employee representatives, as appropriate, under labor relations laws or negotiated agreements. Such negotiation, however, cannot

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change or alter the requirements of this rule because DOE security requirements themselves are non-negotiable under the security provisions of DOE contracts. Employees covered under collective bargaining agreements will not be subject to the provisions of this rule until those agreements have been modified, as necessary; provided, however, that if one year after commencement of negotiation the parties have failed to reach agreement, an impasse will be determined to have been reached and the contractor will unilaterally implement the requirements of this rule.

§ 707.16 Records.

(a) Confirmed positive test results shall be provided to the Medical Review Officer and other contractor and DOE officials with a need to know. Any other disclosure may be made only with the written consent of the individual.

(b) Contractors shall maintain maximum confidentiality of records related to illegal drug use, to the extent required by applicable statutes and regulations (including, but not limited to, 42 U.S.C. 290dd-3, 42 U.S.C. 290ee-3, and 42 CFR part 2). If such records are sought from the contractor for criminal investigations, or to resolve a question or concern relating to the Personnel Assurance Program certification or access authorization under 10 CFR part 710, any applicable procedures in statute or regulation for disclosure of such information shall be followed. Moreover, owing to DOE's express environmental, public health and safety, and national security interests, and the need to exercise proper contractor oversight, DOE must be kept fully apprised of all aspects of the contractor's program, including such information as incidents involving reasonable suspicion, occurrences, and confirmed test results, as well as information concerning test results in the aggregate.

(c) Unless otherwise approved by DOE, the contractors shall ensure that all laboratory records relating to positive drug test results, including initial